

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CHAMBER SUMMONS NO.1839 OF 2004
IN
LAND ACQUISITION REFERENCE NO.2 OF 1997
(CASE NO.LAQ/369/1)

The S.L.A.O.

V/s.

Gangubai D.Ulvekar & ors. ..Claimants.

And

Narendra Gupta. ..Applicant.

Mr.P.K.Dhakephalkar i/b R.N.Kachare for applicant.

Mr.V.N.Venegaonkar i/b Zahair & Co. for claimants
No.2 to 5.

Ms.S.M.Dandekar, AGP for SLAO.

CORAM: A.M.KHANWILKAR, J

DATE : JUNE 21, 2005.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. This application is opposed only by claimants No.2 to 5 through their counsel. According to the said claimants, the applicant is claiming to be joined as a party in the present reference in place of claimant No.1 Gangubai Dinanath Ulvekar. It is submitted that the said Gangubai Dinanath Ulvekar has

no right, title or interest in the disputed property. On this submission, it is contended on behalf of the claimants No.2 to 5 that the applicant should not be joined as a party to the pending reference under Section 30 of the Act.

3. In my opinion, however, the question whether Gangubai Dinanath Ulvekar, through whom, the applicant claims right in respect of disputed property as claimant No.1 had any right or interest in the disputed property, is a matter, which will be resolved at the end of the trial, after the parties adduce evidence in that behalf. At this stage, it is not possible to nonsuit the applicant, in as much as, there are documents on record to indicate that the said claimant No.1 Gangubai Dinanath Ulvekar has consented to decree in favour of the applicant herein, authorising the applicant, apportionment on the compensation amount, which will go to the share of Gangubai Ulvekar.

4. In the circumstances, this chamber summons is allowed in terms of prayer clause (a) and (b), leaving all questions regarding right, title and interest of Claimant No.1 Gangubai Dinanath Ulvekar, open for consideration in accordance with the law.

Amendment to be carried out within two weeks. No order as to costs.